

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:07-00146

MICHAEL TRACY GARNETT

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER  
MEMORANDUM OPINION AND ORDER

On April 7, 2011, the United States of America appeared by Lisa G. Johnston, Assistant United States Attorney, and the defendant, Michael Tracy Garnett, appeared in person and by his counsel, Edward H. Weis, Assistant Federal Public Defender, for a hearing on the petition on supervised release and amendment thereto submitted by United States Probation Officer Patrick M. Fidler, the defendant having commenced a three-year term of supervised release in this action on November 3, 2009, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on February 20, 2008.

The court heard the evidence, admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that the defendant committed the local offenses of operating an ATV on a roadway and no proof of insurance for which he was cited on August 25, 2010; (2) that the defendant committed the federal, state and local offense of simple possession of marijuana for which he was cited on October 17, 2010; (3) that the defendant used controlled substances as evidenced by positive urine screens submitted by him on December 29, 2009, and March 4, 2011, for methamphetamine; September 15, 2010, for marijuana; and December 20, 2010, and February 24 and March 17, 2011, for methamphetamine and marijuana; (4) that the defendant failed to submit monthly reports for January, February and March, 2011; (5) that the defendant failed to report to the probation office on December 9, 2010, by 9:00 a.m. as directed by the probation officer; (6) that the defendant was directed on December 20, 2010, to report to the probation office in person on the first Tuesday of each month beginning January 4, 2011, and he failed to do so during the months of January, February or March 2011; (7) that the defendant failed to notify the probation officer within 72 hours of the

above-referenced citations inasmuch as the probation officer discovered the citations during a routine criminal records check conducted on March 4, 2011; (8) that the defendant failed to appear for urine screens on October 28, November 10 and 15, December 1 and 23, 2010, January 13 and 19, and February 9, 2011; (9) that the defendant failed to report for counseling sessions as directed during the months of May, June, July, August, September, October and November 2010; (10) that the defendant failed to appear for counseling appointments arranged for him on January 28, 2011, and March 2, 2011, and attended no appointments in February 2011; and (11) that the defendant was in constructive possession of a dangerous weapon, a large knife with a blade approximately five inches long, along with various items of drug paraphernalia, when he was arrested by members of the United States Marshals Service on March 17, 2011, as more fully detailed in the court's findings as set forth on the record of the hearing; all as set forth in the petition on supervised release and addendum thereto, the defendant having admitted on the record the violations set forth above numbered (1) through (10) and the court having found by a preponderance of the evidence that the defendant committed the violations set forth above in number (11) .

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

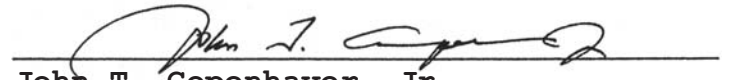
And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense, the intervening conduct of the defendant and after considering the factors set forth in 18 U.S.C. § 3553(a), that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of TWELVE (12) MONTHS, to be followed by a term of two (2) years of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition

that he participate in a substance abuse program as directed by the probation officer.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: April 15, 2011

  
John T. Copenhaver, Jr.  
United States District Judge